

Order

Michigan Supreme Court
Lansing, Michigan

January 14, 2009

Marilyn Kelly,
Chief Justice

ADM File No. 2008-33

Michael F. Cavanagh
Elizabeth A. Weaver
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman
Diane M. Hathaway,
Justices

Proposed Amendment of
Rule 2.516 of the
Michigan Court Rules

On order of the Court, this is to advise that the Court is considering an amendment of Rule 2.516 of the Michigan Court Rules. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter also will be considered at a public hearing. The notices and agendas for public hearings are posted at www.courts.michigan.gov/supremecourt.

Publication of this proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposal in its present form.

[Additions are indicated by underlining and deletions are indicated by strikeover.]

MCR 2.516 Instructions to the Jury

(A) [Unchanged.]

(B) Instructing the Jury.

(1) After the jury is sworn and before evidence is taken, the court shall give such preliminary instructions regarding the duties of the jury, trial procedure, and the law applicable to the case as are reasonably necessary to enable the jury to understand the proceedings and the evidence. MCR 2.516(D)(2) does not apply to such preliminary instructions. The court shall specifically instruct the jurors that they shall not:

- (a) discuss the case with others until deliberation begins, except as otherwise authorized by the court;
- (b) read or listen to any news reports about the case;
- (c) use a computer, cellular phone, or other electronic device with communication capabilities while in attendance at trial or during deliberation;

- (d) use a computer, cellular phone, or other electronic device with communication capabilities to obtain information about the case when they are not in court. As used in this subsection, information about the case includes, but is not limited to, the following:
 - (i) seeking information about the criminal record of a party or witness;
 - (ii) reviewing news accounts of the case;
 - (iii) conducting research on any topics raised or testimony offered by any witness;
 - (iv) researching any other information the juror might think would be helpful, such as an aerial map of the scene.
- (e) Any juror who observes or has reason to believe that another juror has used an electronic device in violation of this rule shall immediately inform the court of the violation.

(2)-(5)[Unchanged.]

(C)-(D)[Unchanged.]

Staff Comment: This proposal, submitted by the Prosecuting Attorneys Association of Michigan, would require judges to instruct jurors that they are prohibited from using computers or cell phones when they are in attendance at trial or during deliberation, and prohibited from using a computer or other electronic device to obtain information about the case when they are not in the courtroom. It would further require a juror who knows or has reason to know that another juror has violated these prohibitions to inform the judge. The proposal also would prohibit discussion among jurors until deliberation, and would prohibit jurors from reading about or listening to news reports about the case.

The staff comment is not an authoritative construction by the Court.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201.

Comments on these proposals may be sent to the Supreme Court Clerk in writing or electronically by May 1, 2009, at P.O. Box 30052, Lansing, MI 48909, or MSC_clerk@courts.mi.gov. When filing a comment, please refer to ADM File No. 2008-33. Comments will be posted at www.courts.mi.gov/supremecourt/resources/administrative/index.htm.



I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

January 14, 2009

Corbin R. Davis
Clerk